

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BERNADETTE M. FLOWERS,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

CASE NO. 3:21-cv-05507-GJL

ORDER ON MOTION FOR AN
AWARD OF ATTORNEY FEES
PURSUANT TO 42 U.S.C. § 406(b)

Presently before the Court is Plaintiff's Motion for an Award of Attorney's Fees Pursuant to 42 U.S.C. § 406(b). Dkt. 33. Defendant neither supports nor opposes the Motion. *See* Dkt. 35. Pursuant to 28 U.S.C. § 636(c), Federal Rule of Civil Procedure 73, and Local Rule MJR 13, the parties have consented to have this matter heard by the undersigned Magistrate Judge. *See* Dkt. 5.

Under 42 U.S.C. § 406(b), the Court may allow a reasonable fee for an attorney who represented a Social Security claimant before the Court and obtained a favorable judgment, as long as such fee is not in excess of 25% of the total past-due benefits. *See Grisbrecht v. Barnhart*, 535 U.S. 789 (2002). When a contingency agreement applies, the Court will look first

1 to such agreement and will conduct an independent review to assure the reasonableness of the
2 fee requested, taking into consideration the character of the representation and results achieved.
3 *See id.* at 807, 808. Although the fee agreement is the primary means for determining the fee, the
4 Court may reduce the fee for substandard representation, delay by the attorney, or because a
5 windfall would result from the requested fee. *See Crawford v. Astrue*, 586 F.3d 1142, 1151 (9th
6 Cir. 2009) (citing *Grisbrecht*, 535 U.S. at 808).

7 Here, Plaintiff signed a contingency fee agreement agreeing to pay her attorney a fee
8 equal to 25% of the amount awarded for past-due benefits. *See* Dkt. 33-3. The representation was
9 not substandard and the results achieved were excellent. *See* Dkt. 26; Dkt. 33-2; *Grisbrecht*, 535
10 U.S. at 808. This Court reversed and remanded this matter to the Administration for further
11 proceedings and, following remand, Plaintiff was awarded benefits. *See* Dkts. 26, 33-2. There is
12 no evidence of an excessive delay by the attorney or that a windfall will result from the requested
13 fee.

14 Plaintiff moves for attorney's fees in the total amount of \$30,964.73, which is 25% of
15 Plaintiff's total past-due benefits. *See* Dkt. 33. Previously, Plaintiff was awarded attorney's fees
16 of \$22,696.23 under the Equal Access to Justice Act ("EAJA"). Dkt. 30; *see also* Dkt. 33-5.
17 Therefore, Plaintiff is moving for a remaining attorney's fee award of \$8,268.50. Dkt. 33. After
18 review of the relevant record, Plaintiff's Motion (Dkt. 33) is **GRANTED**.

19 Dated this 28th day of December, 2023.

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22 Grady J. Leupold
23 United States Magistrate Judge
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